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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 3189/2017

MOHD ASIF

..... Petitioner

Through: Mr.A.K.Dey, Advocate with
Petitioner in person

versus

THE STATE NCT OF DELHI & ANR

..... Respondents

Through: Mr.Kewal Singh Ahuja, APP for the
State/R-1 with SI Brahampal, PS
Malviya Nagar
Mr.Ramesh Kumar, Advocate for R-2
with R-2 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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17.08.2017

1. The present petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure praying for quashing of FIR No.435/2015, under Sections 354D/506 IPC, registered at P.S. Malviya Nagar and consequential proceedings arising therefrom.
2. The FIR No.435/2015 under Section 354D/506 IPC was registered at PS Malviya Nagar on the basis of the complaint made by the respondent No.2 complaining that the petitioner Mohd.Asif who is her neighbour was banging the gate of her house for 2 to 2 ½ hours. She alleged that he used to stalk her whenever she used to go to college or tuition and also attempted to hold her hand. He has been harassing her for some time.

3. Learned counsel for the petitioner submits that during the pendency of proceedings the matter was referred to Mediation Centre, Saket Courts, New Delhi and the matter has been amicably settled between the parties vide Mediation Settlement dated 2nd February, 2017. The copy of the Mediation Settlement is also annexed with this petition as Annexure B (colly).

4. Though the petitioner has been charged with the offences, some of them are non-compoundable, but in the decision in the case of ***Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257***, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has laid down the following guidelines:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.

However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing

criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

5. Learned counsel for the petitioner submits that since the matter in dispute has been amicably settled between the parties, no purpose would be served in prosecuting the petitioner any more, therefore, the FIR may be quashed.
6. Respondent No.2/complainant is present in Court today and affirms that she has amicably settled the dispute with the petitioner. She is not interested in prosecuting the petitioner any further and the FIR in question and all proceedings emanating therefrom may be quashed. She also submits that FIR was lodged due to some misunderstanding.

7. In view of the aforesaid amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the petitioner, which will only be an exercise in futile and wastage of precious time of the Court.

8. Accordingly, in view of the mediation settlement arrived at between the parties, the FIR No.435/2015, under Sections 354D/506 IPC, registered at P.S. Malviya Nagar and consequential proceedings arising therefrom are hereby quashed.

9. The petition is allowed.

Dasti.

PRATIBHA RANI, J.

AUGUST 17, 2017

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